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Expanded Connecticut Electronic Monitoring Law Takes Effect

Connecticut's long-standing statute governing workplace electronic monitoring expanded this year, placing additional notice and posting requirements on employers. That expansion took effect October 1.

Preexisting Law

Since 1998, Connecticut law has required employers that engage in electronic monitoring to give prior written notice to employees who may be affected, informing them of the types of monitoring that may occur. The law applies to all employers in Connecticut. It defines "electronic monitoring" broadly as "the collection of information on an employer's premises concerning employees' activities or communications by any means other than direct observation, including the use of a computer, telephone, wire, radio, camera, electromagnetic, photoelectronic or photo-optical systems, but not including the collection of information (A) for security purposes in common areas of the employer's premises which are held out for use by the public, or (B) which is prohibited under state or federal law." Until now, employers could satisfy the prior notice requirement by posting a notice concerning the types of electronic monitoring they may engage in. Violations of the law are punishable by civil penalties, with a maximum of \$500 for a first offense, \$1,000 for a second offense, and \$3,000 for a third and each subsequent offense.

New Expanded Requirements

Effective October 1, the electronic monitoring law imposes three new requirements on Connecticut employers. First, to satisfy the prior written notice requirement, employers that engage in electronic monitoring must give employees who may be affected prior written notice of the specific locations on the employer's premises where such monitoring may occur. Second, the notice must be posted not only in a conspicuous location but in the specific locations on the employer's premises where the monitoring may occur. The Connecticut Department of Labor has published a sample notice, available on [its website](#). Third, employers that engage in electronic monitoring must provide employees who are hired on or after October 1 with a plain-language written statement advising them of activities that are prohibited and that may be monitored without giving prior written notice. This statement must be provided before an employee commences employment.

The situations in which employers may conduct electronic monitoring without giving prior written notice are narrow but significant. Specifically, employers may conduct electronic monitoring without prior notice when (A) they have reasonable grounds to believe that employees are engaged in conduct that (i) violated the law, (ii) violated the rights of the employer or its employees, or (iii) creates a hostile work environment and (B) electronic monitoring may produce evidence of this misconduct. When an employer has reasonable grounds to conduct electronic monitoring for security and employee safety purposes, it need not disclose the specific location where such monitoring may occur.

Takeaways

Connecticut employers should review their monitoring practices to make sure they know all actions they are taking for which notice may be required. The statute's definition of "electronic monitoring" has not changed, but the available technology has, encompassing practices like digital activity tracking that may not have existed when the law was enacted. Employers should update their notices to comply with the new requirements, identifying the specific locations on the employer's premises where

electronic monitoring may occur and posting the notices in all such locations. Employers should also remember to provide new employees with the required notice of prohibited activities that may be monitored without prior notice.

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